

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

| | | |
|--|---|-------------------------|
| Dion Orlando Taylor, |) | C/A No. 0:10-50-HMH-PJG |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| John Ozmint, Director, in his official and |) | ORDER |
| individual capacity; Lt. John Mitchell, in his |) | |
| individual capacity; Lt. Jim Gibson, in his |) | |
| individual capacity; Bernard McKie, Warden, |) | |
| in his official and individual capacity, |) | |
| |) | |
| Defendants. |) | |
| |) | |

Plaintiff Dion Orlando Taylor, proceeding *pro se*, filed this action pursuant to 42 U.S.C. § 1983 alleging a violation of his constitutional rights. This matter is before the court on the plaintiff's motions to amend/correct his Complaint (ECF Nos. 40 & 47) as well as the defendants' motion to stay discovery (ECF No. 41).

Plaintiff's first motion to amend his Complaint seeks the following: (1) to add defendants; (2) to add as a claim under the Eighth Amendment for mental and emotional injury; (3) to clarify Defendant Mitchell's actions regarding Taylor's knee injury; (4) to amend the amount and type of relief; and (5) to add a component (cell conditions) to his claim of cruel and unusual punishment. (ECF No. 40 at 1-2.) The defendants filed a response in which they object to the addition of new defendants, but have no objection to the other proposed amendments.

Taylor's motion does not specify the defendants he wishes to add. Accordingly, the court cannot determine if they can be properly joined in this action. See Fed. R. Civ. P. 20(a)(2).

Therefore, Taylor's motion is denied as to the addition of new defendants, but granted as to the remainder of his motion. (ECF No. 40.)

Taylor's second motion to amend/correct his Complaint seeks (1) to add a claim that the defendants violated his First Amendment rights and SCDC policy by punishing him for talking in the cafeteria and prohibiting free speech; (2) to add a claim that Defendants McKie and Ozmint were responsible for creating the policy or allowing violation of Taylor's First Amendment rights; and (3) to add facts relating to his mental and emotional injury claim.¹ (ECF No. 47.) Taylor's second motion to amend/correct his Complaint is granted without timely opposition filed.

In light of the court's ruling, the defendants shall have twenty-one days from the date of this order to supplement their motion to dismiss, if they so elect. Additionally, the defendant's motion to stay (ECF No. 41) is granted, and discovery in this matter shall be suspended until the court rules on the defendants' pending motion to dismiss.

IT IS SO ORDERED.



Paige J. Gossett
UNITED STATES MAGISTRATE JUDGE

October 26, 2010
Columbia, South Carolina

¹ The court notes that the defendants filed a response in opposition to Taylor's second motion to amend/correct (ECF No. 49), but that their response was untimely.